frustrating the purposes of the UN and in principle fell within the exclusion clause (subject to issues of gravity, international dimension and individual responsibility).

'Serious reasons for considering':The last issue in Al-Sirri's case was how to assess the evidence. Did the charges have to be proved? Clearly, the phrase indicated that decision-makers did not need to be convinced of guilt in order for the exclusion clauses to apply. But did the decision-maker (and the court) need to believe it was more likely than not that the allegations were true? If so, the Old Bailey charges could not found exclusion.

The Supreme Court was reluctant to lay down a hard and fast rule – but gave some pointers. Evidence giving rise to serious reasons for considering that someone was guilty of the acts in question had to be clear, credible and strong. 'Considering' was stronger than 'suspecting' or 'believing'. If it was more likely than not that the person had not committed the act in question there could not be serious reasons for considering that he did. And finally, the sentence which could be decisive: 'The reality is that there are unlikely to be sufficiently serious reasons for considering the applicant to be guilty unless the decision-maker can be satisfied on the balance of probabilities that he is.'

According to the judgment, the Home Secretary accepts that neither Al-Sirri nor DD could be returned to their countries because of the real risk of torture. But the difference between non-return and the grant of refugee status is the difference between the recognition of a status and the civil and social rights which go with it, and a precarious, contingent life where planning a future is impossible. Both cases will now return to the Tribunal for further rulings in accordance with the Supreme Court's guidance. But it is hard to see how the Tribunal could now refuse to recognise Al-Sirri as a refugee, in the absence of further evidence of terrorist involvement.

Found Not Guilty Of Murder -Police in too Much of a Rush to Convict

A man accused of murdering his son, has been cleared of the killing. Kevin Patrick Fletcher, 62, had always denied stabbing Kevin Anthony Fletcher, 32, after giving him a lift home from bingo on 2 September, 2010. The jury took an hour and a half to reach a unanimous verdict to acquit Mr Fletcher snr from Drumarg Park, Armagh.

During the trial the defence had suggested that the police investigation of the murder had been somewhat flawed as they claimed there were any number of people, including an alleged "outraged husband", who could have fitted the bill as a possible suspect.

The defence had contended that the police were "in a rush to judgement" and that they failed to properly investigate a number of matters including damage to the door of the flat and the fact there were a number of people out looking for Mr Fletcher jr and these "other suspects floating about ..... should have been considered". *BBC News, 28 December 2012*

Prison population UK/Scotland last Friday: 91,521 - Males 87,139 - Females 4,382

Hostages: David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

Miscarriages of JusticeUK (MOJUK)
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MOJUK: Newsletter 'Inside Out' No 405 03/01/2013)

Early Day Motion 865: Tony Stock [Miscarriage of justice]

That this House notes with deep regret and sadness the recent death of Tony Stock, the victim of one of the most outrageous miscarriages of justice of modern times; congratulates the Criminal Cases Review Commission for referring Tony's conviction for the robbery of a Tesco supermarket in Leeds in 1970 to the Court of Appeal for an historic second time; regrets that the Court of Appeal has on four separate occasions failed properly to engage with the overwhelming body of evidence establishing Tony's innocence and quash his conviction to enable him to clear his name before his death; and encourages his solicitor, Glyn Maddocks, and other long time supporters to continue to work to achieve posthumous justice for Tony and his family. Primary sponsor: Sheerman, Barry House of Commons: 18/12/2012

Tony Stock: 'A Self Evident Injustice' - by Ralph Barrington for the Justice Gap

Tony Stock was convicted of robbery at Leeds Assizes in July 1970. He was sentenced to ten years imprisonment. Stock says he is completely innocent and for more than forty years has fought to clear his name. Quite remarkably, his case has been before the Court of Appeal four times, but on each occasion his appeal has been dismissed. His third and fourth appeals followed referrals by the Criminal Cases Review Commission (CCRC). Stock's case remains the only one that the CCRC has referred to the Court of Appeal for a second time.

I would have thought that the injustice done to Tony was fairly self-evident and yet his conviction still stands. I find this very difficult to accept. Only a detailed account of Tony's story can properly explain how he came to be wrongly convicted and why this injustice has been perpetuated. Now retired from the CCRC, I intend to provide that detailed account.

This is not that detailed account. The CCRC's statement of reasons for its decision to refer the case for a second time is 40 pages long and is supported by numerous other documents. The Court of Appeal judgment when dismissing Stock's fourth appeal is 17 pages long. It would take a book, at least the size of an average novel, to recount all that has happened since 1970. It is an incredible story of how the criminal justice system has failed Stock and only a detailed account can properly explain what has gone wrong. In this short article I will nevertheless try to provide some understanding of the injustice Stock has suffered.

The Robbery: About 6.45pm on Saturday 24 January 1970 Mr Gregory, the manager of the Tesco store in the Merrion Centre in Leeds, was taking cash to a nearby bank night safe. He was accompanied by another member of staff. It was dark and wet and the area was not well lit. The two men were attacked from behind and struck with iron bars. It was a ferocious attack. Gregory received blows to his hand which fractured his fingers and forced him to drop the night safe bags. These contained a little over £4,000. Gregory and his colleague had, in fact, left the store with Stewart Wilson, the warehouse manager, but he had stopped to buy a newspaper. Wilson heard a scream and ran over. The robber attacking Gregory swung round and looked straight at Wilson. He hit the ground with his iron bar and aggressively invited Wilson to 'have a go'. The two men stared at each other for a few seconds before the robber, in response shouting from his mates, turned and ran to their getaway car. Wilson, very commendably, ran after the robbers and managed to accurately record the index number of their car.

The then Leeds City Police swung into action to try to find the men responsible for this dreadful crime. Wilson was the only witness able to describe any of the robbers. Later that evening, the police showed Wilson the Leeds City photograph albums to see if he could identify the robber. He did not do so. It is known that the albums did not contain Stock's photograph. The following day, Sunday 25 January, Wilson worked with a police artist to produce an artist's impression of the robber. That afternoon he also made an identikit impression.

Identification: The identikit impression was published and quickly recognised by a senior Bradford police officer as bearing a very good likeness to Stock who had been acquitted of a robbery in Bradford two years earlier. The identikit impression was also recognised by three Tesco employees as being very much like a particularly smelly customer who had been in the store on the Thursday before the robbery. Leeds City Police acquired a photograph of Stock and showed it, as one of a group of ten photographs, to the three employees. All three picked out Stock's photograph as that of the smelly customer they had seen in the store.

Tony Stock lived in Stockton on Tees, more than an hour's drive north of Leeds. The police called on him and asked him to account for his movements on the day of the robbery. He denied that he had been in Leeds. He was shown the identikit impression of the robber and acknowledged that it did bear some resemblance to him. He declined the police invitation to stand on an identification parade. The police did not arrest Stock; had they done so he would have been entitled to see a lawyer who might have advised him to stand on an identification parade.

Following Stock's refusal to stand on an identification parade, the two detective sergeants working on the case took the witness Wilson to Stock's house so that he could confront him. When Wilson came face to face with Stock at his front door he identified him as the robber. Stock was arrested and taken firstly to Stockton on Tees police station where he was held whilst one of the Leeds officers took a witness statement from Wilson to cover his identification of Stock as the robber. Quite incredibly, the two detective sergeants, Stock their prisoner and Wilson all travelled back to Leeds in the same small motor car. It could not have been a pleasant journey.

In 1970 there were no rules to govern how a confrontation between a witness and suspect should be conducted. There were though, rules about the conduct of identification parades. The rules required that wherever possible identification parades should be conducted by an officer of Inspector rank who was not in anyway involved in the investigation of the particular crime. This was to ensure that the identification parade was conducted fairly and to avoid any suggestion that the outcome was affected by the officers involved in the case. If an independent officer was required to conduct an identification parade, then it is arguable that this principle should have applied equally to any identification procedure, including a confrontation. It cannot have been right for the two officers responsible for the investigation to have taken Wilson to Stockton on Tees and to have arranged the confrontation themselves. At trial a witness's confidence in the correctness of his identification is tested in cross examination. It could not have been appropriate for Wilson to hear the exchanges between Stock and the two detective sergeants on the journey back to Leeds as whatever was said could have lent support to Wilson's view that his identification of Stock was correct.

Verballing: An important element of the Crown's case was the things allegedly said by Stock to the police when they brought Wilson to his front door and later when they interviewed him in a Leeds police station. In 1970 there were none of the modern safeguards to prevent the police 'verballing' suspects or being falsely accused of doing so. Whilst the jury in 1970 must have accepted the police evidence of what Stock said, the CCRC found it surprising that Stock, a man with recent expe-

money abroad;· - he had been convicted in absentia by Egyptian courts of conspiracy to kill the prime minister and of membership of a terrorist organisation, and on a US indictment on charges of providing material support to a terrorist organisation;· - he had been indicted at the Old Bailey for conspiracy to murder General Masoud, the Northern Alliance leader killed in Afghanistan by suicide bombers posing as journalists two days before the 9/11 attacks, a charge which the judge dismissed on the basis that the evidence was equally consistent with guilt and innocence.

Of these, the first four were not contested, but the Court of Appeal ruled that in themselves these allegations could not support a decision that he had acted against the purposes and principles of the United Nations. The Egyptian convictions in absentia were ultimately excluded because they had been obtained by torture of others. The US indictment was excluded too, because the US authorities had provided no evidence in support. That left the Old Bailey indictment. Al-Sirri's lawyers argued that the charge could not give rise to exclusion for two reasons: first, conspiracy to kill a general in Afghanistan was not of itself contrary to UN purposes and principles; and second, that (as the judge had found) the evidence pointed to innocence and guilt as equally likely, and 'serious reasons for considering' meant more than that.

The allegations against DD: Al-Sirri's case was joined in the Supreme Court with the case of DD (Afghanistan). DD had been involved in fighting UN-mandated troops ISAF) in Afghanistan as a sub-commander in Jamat-e-Islami, which allied itself with the Taliban. He fled to Pakistan with his brother when the US invaded Afghanistan but then returned after an assassination attempt which killed his brother, and fought until he felt equally at risk from his former colleagues as from Karzai's troops, when he came to the UK and claimed asylum. The Court of Appeal ruled that fighting against International Security Assistance Force (ISAF) troops mandated by the UN (although not directly controlled by it) to provide security and to protect and support the UN's work in Afghanistan was contrary to its purposes and principles, justifying DD's exclusion from refugee protection, although the issue of individual responsibility had to be addressed. DD's lawyers argued that he had been engaged in armed insurrection, which is not in itself contrary to the purposes and principles of the United Nations.

'Purposes and principles of the UN': Both cases raised the question: what is the meaning of the phrase 'acts contrary to the purposes and principles of the UN'. At first glance you would think it could apply only to state actors, since the UN Charter and its founding principles are all about relations between nation states and securing international peace. In the 2010 case involving the Kurdish separatists, the European Court of Justice decided that non-state actors could in principle commit acts contrary to the UN's purposes and principles, and the Home Office position was that all terrorism was caught by the provision, relying on UN declarations and resolutions secured by western governments in the 1990s to the effect that acts of terrorism were in principle contrary to the UN's purposes and principles. Al-Sirri's lawyers argued that such acts must have an international dimension and must be capable of affecting international peace and security. It would not be enough, they argued, that actions are taken in one state to destabilise the government of another (the alleged motivation for the conspiracy to kill General Masoud).

The Supreme Court accepted that to qualify as 'contrary to the purposes and principles of the UN', an act would have to impinge on the international plane, in terms of gravity, international impact and implications for international peace and security. But as the Tribunal had held, the killing of Masoud had had such international impact, so it was legitimate to categorise it as it had been. In relation to DD, the Supreme Court ruled that while armed insurrection per se would not necessarily be contrary to UN purposes and principles, attacking ISAF was

by the Convention from return to persecuting states.

This caused no problems while refugees were few in number and were coming from Iron Curtain or other 'enemy' states. But with the demise of the Cold War, the growth in the numbers of refugees seeking protection in Europe from the 1980s on, including many supporters of political or ethnic struggles in Turkey, Sri Lanka and the Maghreb, the grant of protection to those guilty of crimes in their own countries in support of a liberation struggle or political movement came under increasing attack, in parallel with the increasing cooperation between the UK and US security services and those of the countries of origin of many of the refugees. In the 1990s France and Germany banned Algerian and Kurdish movements respectively and deported activists.

In the UK, the Terrorism Act 2000 came up with a definition of terrorism so broad as to encompass street protest. That Act also banned 21 organisations, from Al Qaida to movements with mass support including the PKK and LTTE – creating insoluble dilemmas for thousands of 'ordinary' asylum seekers whose claims were based on support for those who were fighting for their right to exist.

Terrorism as 'non-political crime': Four years earlier, in 1996, the UK House of Lords had declared that terrorist crime was 'non-political' even though purportedly political, because of the disproportion between means and ends. Further legislation criminalised conspiracies in the UK to commit crimes abroad. By now the right to self-determination proclaimed by the UN Charter appeared to have been virtually obliterated by its re-drawing as 'terrorist violence' which could not only attract criminal penalties in countries of supposed refuge but could also found exclusion from refugee protection. (Those excluded from refugee protection cannot legally be returned to a country where they risk torture, since the European Court of Human Rights has upheld, in theory at least, the absolute prohibition on return to torture in the Human Rights Convention in the face of sustained attack by European governments including the UK.)

Is membership of a banned organisation enough for exclusion?: Over the past decade, battles have raged in the courts over just what acts can disqualify someone fleeing persecution from refugee status. The Home Office, along with European counterparts, has argued that mere membership of a proscribed organisation, even historic membership, is enough to disqualify. The courts have disagreed, holding consistently that there must be more than mere membership; individual responsibility for terrorist acts must be attributable to the asylum seeker before he (invariably) can be excluded. (But of course inferences of individual responsibility can be drawn from command positions in terrorist organisations.) The European Court of Justice[i] upheld this interpretation in a 2010 case[ii] involving two asylum seekers in Germany who had been members of Kurdish liberation organisations and had supported armed struggle. Neither support for a proscribed organisation nor support for armed struggle was enough, ruled the court, to provide 'serious reasons for considering' that they had committed serious non-political crimes or acts contrary to the purposes and principles of the United Nations.

What such 'purposes and principles' are is another area of controversy. And yet a further issue which has vexed the court is that of proof. To exclude someone from refugee protection, the excluding government must have 'serious reasons for considering' the person to be guilty of the prohibited acts. What does this mean? All these issues were canvassed in the Supreme Court in the case of Al-Sirri and the companion case of DD (Afghanistan), in which judgment was given on 21 November.

The allegations/reasons for excluding the Egyptian from refugee protection were as follows: - he published and wrote a foreword to a book by a member of al-Gamma al-Islamiyya, an organisation proscribed under the Terrorism Act;· - he possessed an unpublished manuscript on jihad by Ayman Al-Zawahiri, a former leader of the organisation, Egyptian Islamic Jihad;· he possesses books and videos on Al Qaida and Osama bin Laden;· - he had transferred relatively large sums of

rience of having been arrested and interviewed for a very serious offence, would have made the incriminating remarks attributed to him whilst completely denying his involvement in the robbery. The most crucial remark allegedly made by Stock was when the police brought Wilson to his front door. On seeing Wilson he is alleged to have said: 'Get that man out of here, he knows me.' The significance of this remark was not lost on the Court of Appeal, because if Stock had recognised Wilson from the robbery then there could be no doubt about the accuracy of Wilson's identification. Somewhat surprisingly the statement made by Wilson shortly after the confrontation omitted any reference to Stock's alleged remark. Stock has always denied saying any such thing. At trial Wilson did recall Stock saying: 'Get that man away from here, he'll identify me.' Whilst this provided some support for the police evidence, the CCRC noted a significant difference between the two versions. The police version 'Get that man out of here, he knows me' suggests that Stock recognised Wilson as the man he threatened during the robbery and is not capable of an innocent explanation. Whereas Wilson's version was capable of an innocent explanation in that Stock was presumably aware, having previously seen the identikit, that there was a real risk of him being identified.

In addition to the identification evidence of Wilson and the police evidence of what Stock had said, there were two further elements to the prosecution case. The three Tesco witnesses had identified Stock in the dock when he appeared at the Magistrates' Court. Since Stock had denied having visited Leeds recently, it was argued that their identification of him as the particularly smelly customer in the store on the Thursday before the robbery undermined his claim not to have visited Leeds recently. The final element was the finding, on the day after the robbery, of a suitcase in a stream at the side of the Wetherby to York road very close to its junction with the A1 road – the obvious route from Leeds to Stockton on Tees. The suitcase contained items from the robbery including four iron bars and six night safe bags.:

Supergrass In 1978 there was a dramatic new development. Samuel Benefield had been arrested by the police in London for a series of armed robberies. He became what was then known as a 'supergrass'. He admitted the crimes he had committed and was prepared to give evidence against other members of the gang. Benefield must have been regarded by the Crown as a witness of truth as he was called to give evidence at three separate trials leading to the conviction of seven former associates. They each received sentences of between 15 and 21 years' imprisonment. Benefield himself was sentenced to five years' imprisonment for robbery. He asked for 41 other offences to be 'taken into consideration'. One of these offences was the 1970 robbery of the Tesco store manger in Leeds for which Stock had been convicted. Benefield named the four associates with whom he carried out the robbery and provided a great deal of detail about the crime itself.

The robbers had used a Ford Cortina, stolen in Wakefield earlier that day. The police found this car in Leeds the following morning. Benefield made a statement about the Leeds robbery. He said that the gang had stayed in Leeds overnight and had left the next day. He said they had stolen another car, probably a Cortina, and had driven it to another town where they caught a train to London. He recalled dumping the night safe pouches in a stream at the side of the road, but could not say where this was.

Benefield's revelations led to an investigation by the then West Yorkshire Metropolitan Police. The investigation established that on the day after the robbery a Ford Cortina had been stolen in Leeds and was later found abandoned at York Railway Station. The Ford Cortina was stolen from a point just 200 yards from where the Cortina used on the robbery had been abandoned. This was a significant piece of new information especially as the suitcase containing

the night safe pouches had been found in a stream at the side of the Wetherby to York road, a perfectly logical route to take from Leeds to York. The investigation also established that the police constable in Leeds who found the abandoned Cortina used on the robbery had also dealt with the report of the theft nearby of the second Cortina. The officer thought it possible that the robbers might have stolen the second Cortina and brought this to the attention of one of the detective sergeants investigating the robbery. None of this was disclosed to Stock's defence team. Had it been so it could have been used to undermine the prosecution's suggestion that, on his way back to Stockton on Tees after the robbery, Stock had pulled a short distance off the A1 to dump the suitcase on the Wetherby to York road.

The West Yorkshire investigating team interviewed and took a statement from Wilson in which he said that one of the detective sergeants in the case had shown him a group of five photographs. He picked one out as being similar to the robber but did not think he was involved. This previously undisclosed information was potentially very important. It was known that the three Tesco employees had been shown a photograph of Stock in a group of 10 photographs. If Wilson had been shown Stock's photograph in a group of five photographs before the confrontation, this could have a bearing on the fairness of the confrontation identification. For some reason the investigating officer took another statement from Wilson, which seemed to miss the point.

After years of protesting his innocence, which included a hunger strike whilst in prison, Stock must have thought that all his prayers had been answered when Benefield admitted that he and four named others had committed the robbery. He could not have been more wrong. He petitioned the Home Secretary to refer his case to the Court of Appeal, but the Home Secretary declined to do so. He tried again some ten years later and in 1993 a different Home Secretary did refer his case. This led to the 1996 Appeal.

Benefield gave evidence at the Court of Appeal; he admitted doing the robbery in Leeds and named the four other men involved. The court accepted that Benefield had given details of the robbery which could have only been known by someone involved in it or who had been provided with this information. The court did not find his evidence credible and rejected it. It is perhaps unsurprising that his grasp of the facts in 1996 was not as good as it was in 1978 and it is a great pity that he did not have the chance to give his evidence much earlier.

The CCRC was very critical of the 1979/80 West Yorkshire investigation, which failed to properly investigate the sequence in which the police showed photographs to witnesses. The absence of a correct sequence of the showing of photographs led to the court being misled at the 1996 appeal. At the 2004 appeal Stock's counsel submitted that the police did show Stock's photograph to Wilson before 5th February 1970, the day of the confrontation. The hearing appeared to turn on the wording of Wilson's statements taken by the West Yorkshire investigation. The CCRC considered these statements to have been poorly worded and which did not adequately deal with the issue to hand. In its judgment the court said that there was no proper basis for concluding or suspecting that Wilson was shown a photograph of the appellant before 5 February 1970. It is very interesting to note that the court referred to the submission that Wilson had been shown Stock's photograph by the police as the crucial submission. It was surely crucial because, had it been accepted, the fact that this had happened without being disclosed must have adversely affected the fairness of the trial and therefore the safety of the conviction.

Moving the goalposts: There were five grounds at the 2008 appeal, the first and perhaps the strongest ground reads as follows: There are substantial grounds to regard the identification evidence of Stewart Wilson as contaminated by his being shown photographs and by

as he says in his book, supports these measures.

We are trialling drug detection technology and using technology to deny signals to illegal mobile phones in prisons, which are often associated with drug supply. We are also pursuing the roll-out of a networked prison intelligence system to help prisons to stay one step ahead of those seeking to breach prison security. As a result, fewer prisoners are testing positive for drugs than at any time since 1996. Around 7% of prisoners test positive for drug misuse when they are in custody, which is a considerable fall from the 64% who used drugs in the four weeks before custody.

My hon. Friend talked about the opportunity to test when someone goes into custody and comes out. Those are fixed points, and I understand their significance, but he will recognise that we must make sure that prisoners do not use drugs at any time throughout their sentence, and mandatory, random drug testing is useful in that. As well as keeping drugs out of prison, we want to deliver a rehabilitation revolution that helps to transform the lives of offenders and ensures that they do not return to a life of crime after their sentence. Reshaping treatment services in prisons and the community is at the heart of the Government's intention to get more people free of their dependence, ready for work, and with somewhere to live. Our objective is to move towards a fully integrated, recovery-orientated system that supports continuity of treatment within and between custody and community. That includes piloting 11 drug recovery wings focused on abstinence, and connecting offenders with community drug recovery services on release.

My hon. Friend will recognise the importance of ensuring that whatever is done with drug treatment in prison, it is important to have continuity through the gate to what goes on in the community. That is also the case for prisoner education. We want to ensure that all our plans recognise that through-the-gate facility. I thank my hon. Friend for his contribution not only to today's debate, but to the more general discussions of these issues. I look forward to engaging further with him and others, and I hope that he will be encouraged by the plans we are developing and will shortly introduce.

How the UK Supreme Court Used Allegations to Deny Al-Sirri Refugee Status

Frances Webber IRR Monday, 26 November 2012

Frances Webber assesses how Yasser al-Sirri's refugee appeal in the UK has resulted in a strange decision where despite never having been convicted of an offence in the UK, the evidence in accusations has been used to deny him refugee status. The Supreme Court's 21 November 2012 judgment throws light on the issue of who should be denied protection as a refugee and on what grounds The issue of who is a terrorist is as intensely political as the relationship between political exiles and the countries that have hosted them. In the UK, late nineteenth-century extradition law provided protection to exiles accused by their home governments of political crimes – and the 'political exception' was recognised and carried forward in the 1951 Refugee Convention, the instrument which purported to consolidate and rationalise the protection of the international community for victims of persecution.

The Convention's exclusion clause, Article 1F, denied recognition as refugees to those in respect of whom there were serious reasons for considering they were guilty of war crimes and crimes against humanity; of 'serious non-political crimes', or of acts 'contrary to the principles and purposes of the United Nations'. The first and third categories of exclusion were clearly based on the notion that perpetrators of persecution should not themselves receive protection, and perhaps the second category too, excluding as it did those committing serious crimes such as homicide, rape or robbery. But implicit in the formulation was that those committing serious political crimes were protected

We have also focused on vocational training and preparing prisoners for employment during their final year in prison. Those courses are closely linked to developing the skills needed by employers in the areas in which offenders will be released.

Guy Opperman: May I take the Minister back to consent? He said that it would be difficult to impose conditions on a judicial sentence attached to custody without consent. Indeterminate sentences for public protection were introduced in that way, and it is also the case with community orders, so there is no fundamental principle between a community sentence and a sentence on licence, both of which exist with a condition attached, and a sentence of custody with an imposition of a requirement to carry out these matters. Does he accept that?

Jeremy Wright: The issue is practical rather than legal. My hon. Friend will recognise that to get an offender to engage properly, whether they have a drug addiction or literacy problems, they must do so voluntarily, because a compulsory arrangement will not deliver the results that we all want. That is very much the message that I have heard from the Shannon Trust, as he has.

I recognise that there are always opportunities to impose restrictions on offenders, whether in the context of community sentences or licence conditions, but we must seek to incentivise prisoners to do what we know they need to do to minimise their risk of reoffending. That will be partly by persuasion, and partly by ensuring that they are prepared to engage with the provision so that they get out of it what they need. I understand my hon. Friend's point.

Rehman Chishti: Does the Minister have an assessment of how many drug treatment and testing orders were given in the last two years, and how many were successfully completed?

Jeremy Wright: My hon. Friend will not be surprised to hear that I do not have the figures immediately to hand, but I am sure that we can get them to him. Inevitably with the regime for drug treatment, which I will come to in a moment, we need greater engagement and better results. We are working as hard as we can to achieve that.

I have talked a little about education. We are doing other things, which I do not have much time to go through, but I draw attention to the virtual campuses in 101 prisons, which provide an opportunity for prisoners to learn with carefully controlled access to a suite of web-based education and employment materials. We must recognise that we need greater scope to broaden the learning offer, to alert prisoners to job vacancies in their release area, to make the process of learning much more akin to that experienced in the outside world, and to give prisoners the experience of using IT.

My hon. Friend the Member for Hexham referred to drugs, and I agree that there are two priorities for the Government and the National Offender Management Service. First, we must stop drugs from entering prisons and secondly we must get offenders off drugs and keep them off drugs. He is right to highlight the fact that the demand for drugs in prisons is far greater and more concentrated than anywhere else in society. The high demand and limited supply of drugs creates prices five to six times higher than in the community and represents a lucrative market. That is why prisons are targeted by organised crime groups using sophisticated smuggling methods. Despite rigorous prison security measures, drugs can penetrate prison walls.

I acknowledge that, as my hon. Friend said, some prisoners will try a drug in prison that they have not used before, but they may have been using other drugs in the community—perhaps they have been taking crack cocaine or heavily abusing alcohol—that they substitute with that new drug.

I assure my hon. Friend that we are committed to improving the situation, and we are making progress. Particular initiatives have included an increase in drug-free prison wings where increased security measures prevent access to drugs. I am pleased that my hon. Friend,

his subsequent failure to disclose those events at trial.

I have set out below the court's judgment in respect of this ground as I have found it impossible to summarise it in any meaningful way:

As to the first ground, Mr Bennathan QC on behalf of the appellant accepts that this was the central issue before the court in 2004, when the appellant's arguments were rejected. He submits, however, that the CCRC reference makes it plain that the Court fundamentally misunderstood the argument, and came to a conclusion that was quite clearly wrong on the material before it or at least wrong now that the material has been more fully deployed and argued.

The basis for this submission is the conclusion of the CCRC that the five photographs which are mentioned by Mr Wilson in his 1979 statement included one of the appellant, and was shown to Mr Wilson by Detective Sergeant Mather. As Detective Sergeant Mather was not on duty over the weekend of the robbery, they were clearly shown to him after he had helped compile the identikit, and probably on the 28th January 1970. This is information which was not disclosed to the defence at trial, and does not appear to have been recorded, contrary to proper practice. Detective sergeant Mather himself refers to showing some photos. It follows that the identification by Mr Wilson on the 5th February 1970 was potentially contaminated.

We agree with the submission up to a point. If Mr Wilson was correct in his recollection in the 1979 statement that he was shown five photographs by the smaller of the detective sergeants that is likely to be a reference to Detective Sergeant Mather. As Detective Sergeant Mather was not on duty over the weekend, Mr Wilson's account must mean that he was shown the five photographs on some occasion other than the occasion that he was shown the albums and helped compile the identikit, which was on Sunday 25th January 1970. It follows that the conclusion of the Court of Appeal in 2004 that he was shown the photographs on the same occasion, is difficult to justify. If he was right that it was Detective Sergeant Mather who showed them to him it must have been later in the week. Other evidence suggests that Detective Sergeant Mather did see Mr Wilson on the 28th January 1970; and indeed the Detective Sergeant accepts that he showed some photographs to Wilson at that time. It may be that those photographs did include a photograph of the appellant. That would be consistent with Mr Wilson's statement that he considered that one of the photographs was of a man similar to the appellant. There is no doubt that if he had indeed been shown a photograph of the appellant, Detective Sergeant Mather should certainly have made a note of the matter and the fact that he had been shown photographs; and should in any event have been disclosed to the defence, whether or not the appellant's photograph was amongst those that were shown to him that day.

It seems to us, however, that there are two difficulties for the appellant. The first is that the point he seeks to make is dependent upon an evaluation, 28 years after the statements in 1979 and 1980 were made, of statements which themselves were made 9 and 10 years after the events in question. That in itself would make it difficult for us to conclude that the evidence was sufficiently clear as to justify the conclusion that it can be a secure basis for interfering and doubting the safety of the verdict. But perhaps more important, even if we accept that the appellant's photograph was amongst the photographs shown to Mr Wilson, at whatever time, before the confrontation on the 5th September 1970, it is clear, first, that it was not available before he helped with the identikit, which was agreed to represent a likeness which was "very close" to the appellant, and the circumstances of the confrontation as described by Mr Wilson was so dramatic that they must have been critical to the conclusion of the jury. If it be the case that there was a photograph of the appellant which Mr Wilson did not immediately recognise as his attacker, that seems to us to be capable of strengthening the reliability of his ultimate

identification, in that he was not prepared to identify him from a photograph, which can often be an unrepresentative likeness, but was able to identify him when he saw him in person. We accordingly do not think that any of the arguments that have been put before us in relation to the photographs undermine the safety of the conviction.

My first thought when I read the above extract from the 2008 judgment was that the court had simply 'moved the goalposts'.

Support Kevan Thakrar – close the Close Supervision Centre!

Having been kept in HMP Woodhill's notorious Close Supervision Centre (CSC) for over a year since I proved my innocence in the matter which caused me to be located here, I am yet to receive any confirmation of progress back to mainstream prison population from anyone in Prison Service management.

In fact, having been proven innocent, my treatment and conditions have become more oppressive. I am housed alongside mental health patients and racists who are rewarded for negative behaviour. Repeated fires, floods and smash ups by those who should be kept in hospital add to the statistics used to 'prove' all CSC prisoners are too disruptive for a normal location.

Unless pressure is put upon the authorities I will continue to be detained within this torture unit and so I ask for your assistance in writing to those with the power to make change

Clair Hodgson CSC Operational Manager HMP Woodhill Milton Keynes, MK4 4DA
Nigel Smith Governor HMP Woodhill Milton Keynes MK4 4DA
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With Thanks, Kevan Thakrar A4907AE, HMP Woodhill (CSC), Milton Keynes MK4 4DA

Literacy and Drugs (Custodial Sentences) House of Commons / 12 Dec 2012 : Column 128WH

Guy Opperman (Hexham) (Con): Prison works. It locks people up effectively so that they cannot then commit a specific crime. Yet for many years, prison has failed to change prisoners' behaviour. Despite multiple new laws and increasingly tougher sentences laid down by ever more robust politicians, prisoners throughout the 1990s and the Blair and Brown Governments have still reoffended in the tens of thousands upon release. It cannot be a satisfactory Government investment when 70% of offenders reoffend on release.

Some 50% of prisoners have a drug problem, and 50% lack basic literacy and maths. Although we can bring much change within prisons to combat drug use and illiteracy rates—I support what the Government are trying to do, although we cannot discuss that today—we can and should start the reform process at the point of sentencing, before offenders even enter prison.

I argue that when passing sentence, a judge should be able to prescribe, as part of the sentence, compulsory completion of a literacy course when the offender is illiterate and of a drug testing and rehabilitation course when they have a drug problem. I would go further: I do not believe that we are sufficiently addressing the incentive to the prisoner. I seek a change to the process for release on licence and, possibly, a change whereby deductions are offered for specific success at passing either literacy or drug rehabilitation courses.

Before I get into the nuts and bolts of my speech, I should make a declaration that I have

drug rehabilitation requirements work at present.

Equally, we need a release framework that operates fairly for all offenders, whether or not they are literate on arrival in prison. That said, I want to ensure that prisoners have incentives to engage in positive and constructive activity during their time in custody. For example, I am reviewing privileges in prison and the rules that currently apply to them. In this and other areas of policy, I want to ensure that we have a system that encourages offenders to engage with the support we offer, as my hon. Friend said.

On literacy, my hon. Friend mentioned his experience as a barrister dealing in criminal law—an experience I share, so I ought to declare my interest as everyone else in the debate has, although the last time I received any legal aid fees was even longer ago than he did. From my experience, I am aware, as he is, of the difficulties that many prisoners have with basic reading and writing. Many prisoners also experience a range of other barriers to learning, whether they be mental illness, poor thinking skills, communication difficulties, sight and hearing problems or previous negative experiences.

We are placing a strong focus on assessing prisoners' learning needs and when a literacy need is identified, it will be addressed as a matter of priority. My hon. Friend the Member for Gillingham and Rainham (Rehman Chishti) mentioned other learning difficulties, dyslexia among them, and was right to identify that as a significant issue among the prison population. We make every effort to identify that as early as possible, and learning providers in particular have a responsibility to do so.

Other things are being done to target prisoners with literacy problems, and to incentivise them to address those issues. We are working with education providers to develop engaging and motivating courses to target resistant learners particularly. Those courses will be marketed by prison staff as part of the prison induction process.

My hon. Friend the Member for Hexham talked about the Shannon Trust, and he is right to recognise its significant contribution. I fully support its work, and have met its staff for discussions, and I am sure I will do so again. We are committed to the use of peer mentors to support reading schemes such as its Toe by Toe project, and my officials are looking at how prison staff can better support its work. My hon. Friend is right to identify peer mentors as a significant step forward in dealing with prisoners who do not, as he said, want to admit their literacy problems.

Guy Opperman: Does the Minister accept that there is a potential role for long-term prison inmates—prisoners in prison—to be peer mentors to other prisoners who have just arrived and need literacy or other courses? Clearly, the people prisoners trust most are other prisoners, and that is no disrespect to individual staff.

Jeremy Wright: Yes, I agree. That is absolutely right, and it is very much what happens now, although we would like it to happen a lot more. The Toe by Toe project particularly is a good example, but there is considerable scope for more peer mentoring, and for more established prisoners helping those who are newly arrived—not only with reading and literacy, but across a whole range of other things. I have seen very good examples of that, and I want to see more. Prisoners often find that working with carefully selected and trained peer mentors—they must be that—can be much less threatening than the classroom environment.

There is a problem, as my hon. Friend said, with shorter sentences, and the difficulty of addressing such problems over a short time frame. That is why we are piloting intensive maths and English courses in prisons, similar to those used by the Army, particularly to address the needs of prisoners serving short sentences.

than 150 times over 150 days, at £25 a pop, breaking into cars to get money for a heroin fix. The police would very much like the information that such a person was heroin addicted upon his release. We do not know what we are dealing with, but we can do something about it.

If a judge was able to order drug treatment and testing as part of a sentence, and it was properly enforced—there are plenty of schemes in prison, the best known and most successful being the Rehabilitation for Addicted Prisoners Trust or RAPt programme—the prison, and the authorities on an inmate's release, would know whether it had been successful. As well as simple incarceration, surely the object of the custody exercise is to change the behaviour of the individuals; if we are not detoxing them to become non-addicted to drugs, what on earth are we trying to do by sending people to prison? We should bear in mind, too, that 20% of all people who take drugs say that they tried them for the first time in prison. That is a sobering statistic.

I want incentives and deductions applied for automatic release, and release on licence must also be addressed in that way. If a prisoner is proposed for release on licence and has a drug condition as part of their sentence, but is not shown to be clean at its end, why on earth should we release that individual on licence? Release is a massive incentive for them. I would go further and ask the Ministry of Justice to consider whether, if we wish to incentivise, we should tie the two fundamental conditions that are key to changing prisoner behaviour to possible further sentence deductions. Hypothetically, on a two-year custodial sentence, one might be looking at a one to three-month deduction for successful completion of a literacy or drugs course. Surely that must be the way forward.

To conclude, if we simply ignore prisoners, lock them up and then discharge them with no skills, we will continue to have a repetition of the appalling statistics of 60% to 70% reoffending, in spite of all the best efforts of governors and Government. What I suggest is a potential way forward.

The Parliamentary Under-Secretary of State for Justice (Jeremy Wright): It is a great pleasure to respond to the debate, and I congratulate my hon. Friend the Member for Hexham (Guy Opperman) on securing it. The debate is not only important but timely, because the Government will soon be publishing our plans to make a radical change in how we support the rehabilitation of offenders. My hon. Friend is rightly concerned with that new focus on rehabilitation both in this debate and in his excellent book "Doing Time: Prisons in the 21st Century"—no doubt available in all good booksellers and an excellent stocking filler. I congratulate him. He has eloquently set out today the issues that face us in tackling offenders' problems with literacy and substance misuse. Both are significant causes of offending and reoffending.

I agree with much of what my hon. Friend suggests, but let me respond in detail to some of the specific issues that he and others have raised in this debate and elsewhere. Let me start with his suggestion that the courts should mandate participation in literacy programmes and drug treatment. The courts already play an important role in framing the content of community orders and suspended sentences. Informed by pre-sentence reports and medical evidence, the courts can use treatment requirements to address drug addiction. They can also impose programme or activity requirements that might involve literacy courses. My hon. Friend suggests that offenders sentenced to custody should be compelled into education, that early release could provide an incentive for completing courses and that offenders entering custody with drug problems should be compelled to receive treatment.

In his book, my hon. Friend acknowledges—I agree with him—that using sentencing in that way is "admittedly difficult". It is important to remember that drug treatment ordered by a court would be lawful, or effective, only if it happened with the offender's consent. That is how

written a book on the issue, the worthy "Doing Time", all proceeds from which go to charity. There is no personal benefit to myself. My ideas, which I talk about today, are more fully expressed in the book. I am a former criminal and legal aid barrister. I conducted nine murder trials on both sides of the fence and between 150 and 180 Crown court and magistrates court trials. As most criminal barristers will know, I am still owed money by the state, even though I have not practised at the bar for two years and seven months. I am grateful to all those who assisted me in the creation of the ideas in the book and to all the prisoners, governors and charities who helped and suggested the ideas that we are trying to expand on today.

The principle today is that we require prisoners to do something to qualify for the privilege of early release, thereby benefiting the wider community by being better able to cope with the outside world on release. At present, if a prisoner does not start a fire in the prison or does not commit some tremendous offence, release on licence is effectively automatic, the consequence being that the persons released are, by and large, ill equipped to deal with the outside world that they have to face. How do we know this? There is copious evidence from august bodies, such as the Centre for Social Justice, showing that 82% of all prisoners have writing abilities less than an 11-year-old's, approximately 50% were excluded from school and have no qualifications and only one in five could complete a job application form. And we wonder why those people fail to become law-abiding members of society after release.

Prison numbers have doubled from 43,000 to 87,000 over the past 20 years and literacy and drug problems are worse than before. In HMP Durham, 300 out of 1,000 prisoners are on methadone or Subutex and 20% in most prisons will be taking illegal drugs. Many prisoners combine both. It is no surprise that we are struggling, if we are releasing people who are drug addicted into the community.

Many of the clients I represented as an advocate were incapable of giving meaningful written instructions or even reading the prosecution papers. Too often, they would say, for example, "My letters aren't so good", and they too frequently signed their names with an X. Reading and writing are the fundamental precursors to any job. Someone cannot even be a builder's labourer in this day and age without the ability to read and write. There should be, where possible, a compulsory requirement for a prisoner to learn.

Rehman Chishti (Gillingham and Rainham) (Con): I declare an interest. I, too, was a barrister and prosecuted and defended. I congratulate my hon. Friend on securing this important debate and pay tribute to him for his excellent book, "Doing Time," which contains a comment from Lord Justice Maurice Kay, saying what a wonderful book it is. It is a good book. I agree with my hon. Friend about literacy: defendants often go into and come out of prison illiterate. Does he agree that when an individual goes into prison their skills should be assessed? For example, they may suffer from dyslexia or other issues. At the moment, everything else is assessed, but dyslexia is not. As my hon. Friend knows, dyslexia affects communication.

Guy Opperman: I endorse my hon. Friend's point. One could go further on dyslexia. Dyslexia, like total illiteracy, is hidden by many prisoners in prison, because it is effectively a crime for them to admit that they cannot read or write or are dyslexic or dyspraxic. Unless that is tested for on arrival, there will be no awareness in the prisons of what kind of person they are dealing with.

Let us be in no doubt. No hon. Member in this Chamber, and no one in my party, has any difficulty sending people to prison, because they clearly should go there for the appropriate offence. That is not an issue. What is at issue is what we do with them when they are in prison, because that is when the redemption and rehabilitation should take place. Once the prisoner is captive, we need to

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teach them the basic skills that their parents, their school and their society have failed to provide them with. There are many areas in which we can work to correct the issue. Notably, there could be a better approach from the Ministry of Justice, although doubtless we will hear many of the great things that it is trying to do. I am a massive supporter of peer mentoring, both outside prison—I welcome what the Secretary of State is doing—and inside. I will try to address that. Staff training needs to be improved. I welcome the improvements that I gather are taking place at prison officer training courses. There has to be a change in the attitude of, and constraints on, governors. It is scandalous that for too long, the 47 key performance indicators that determined how a prison governor was operating were all fundamentally to do with security and not about rehabilitation. That is patently wrong and I am glad that we are changing it.

Rehman Chishti: On rehabilitation, does my hon. Friend agree and understand that there is a problem in respect of prisoners on short sentences, because proper continuity of treatment cannot be provided if they are transferred between prisons?

Guy Opperman: There is no question but that the problem with short sentences is the most difficult task that the Minister who holds the portfolio at the present stage has to deal with. It is much easier dealing with a longer term prisoner, because there are all the benefits of time and, hopefully, security of tenure in a particular prison. I deprecate our moving prisoners around all the time and that there is no specific locality. *continued on next page*

continued from previous page I accept that it is difficult, but it is not impossible. The mentoring schemes and the work that we are trying to do must be the answer, and the basis on which we are trying to deal with the short sentence problem.

There is take-up, and we have discussed it briefly, and doubtless I will be told that there are programmes to teach basic literacy skills. However, participation in such programmes is highly limited. Prisoners are, without question, unenthusiastic to volunteer for such programmes, swallowing their pride about their failure in respect of literacy. There are also issues to do with whether they could earn more money doing work, rather than learning a skill. There is lack of incentive.

The National Audit Office recently summed up the current system with a damning statistic: "Only one fifth of prisoners, with serious literacy or numeracy needs, enrol on a course that would help them." The consequence is that even if there were all the classes in the world and money was poured on to the problem, if there is only 20% take-up, the ability to transform such individuals will be seriously compromised.

I have no doubt that the Minister will tell me that the offenders' learning and skills service phase 4 programme and the prisoner sentence plans are good ways forward, and to a degree they are; but prisoner sentence plans are, with no disrespect to the Opposition and the former Government, a classic, old-style Labour, tick-box Ministry of Justice approach, which, however worthy, has little positive effect. During the preparation of the book, I spoke to prisoners and I am clear that there is lack of incentive. The incentive is the key.

There is a solution from the courts. We can identify the problem at an early stage, on a relatively cost-neutral basis, and the judge can then pass a sentence imposing a literacy course as part of that sentence. Instead of the prison choosing to do that, the judge makes the order, which is part of the sentence. If it is left to a prison governor's choice, depending on where an individual is sent, it will be a struggle. It would make the efficacy of prison so much better, because that prisoner could then be sent to a place that specifically deals with literacy or drugs courses, in the context of all our prisons. Sentence deductions for completing such courses is the way forward. Such an approach is radical and, I accept, needs some piloting—it will not happen straightaway —but professionals at organisations such as the Shannon Trust, which I urge the Minister to hold close to him as the leader in this particular field, are enthusiastic about the idea. They make the point that unless the inmate is willingly engaged, we will struggle to deal with the problem. To make progress, therefore, we have to incentivise.

The individual prisoner's knowledge that the acquisition of literacy and other skills could secure him an early release date is a proper incentive, producing the manifest benefit of a cheaper prison system, which is of less cost to the taxpayer and allows us to spend our money on all the other things that we wish to spend it on. Furthermore, the people who emerge at the end of the process will be far better able to deal with their difficulties.

In short, at present the judges lack such a power; it is held only post-licence. In other words, the judge has the power to order those conditions for release on licence but, frankly, the horse has bolted and is gone. The moment that people are released on licence, their fundamental behaviour cannot be changed—we have to change it while they are captive. The power already exists on licence, so it is a short step for it to be acted on in prison. We need to teach prisoners to read and write, which is a proper part of their sentence, in addition to simple captivity.

To move on to the matter of drugs, the Government are doing good work following the CSJ, Huseyin Djemil and Blakely reports—all of which I endorse—to address progress in rehabilitation. The failure to test prisoners on entry to and release from prison, however, is bizarre. We end up with a form of Russian roulette. Fifty per cent of people in prison are drug addicted in some shape or form, but when they arrive they are only asked a voluntary question, "Are you drug addicted?" Patently, many lie. Some even bring drugs in with them when they enter prison, but we do not test them. Five in 10 going into prison are drug addicted, but we do not know who they are. How on earth can the governor properly deal with such matters and how on earth can the Government money that we are spending on such expensive institutions properly be targeted on those individuals? It is all very well teaching inmates to read and write—literacy—and all manner of skills, but if they are drug addicted when they emerge, whether to substitutes such as methadone or still to heroin, the drug of choice in prisons, it will be of no benefit.

I want compulsory testing, because it is surely better to know the problems before people enter the system. I stress the need to test at prison, although it might be considered for courthouses, because the problem is fundamentally obvious when one enters a Crown court. All Members present in the Chamber were lawyers in their former lives. In my time I represented a man who stole more